IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2348 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NANDESARI RASAYANCEE LTD.

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioner

MR MUKESH R SHAH for respondents on advance copy.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 25/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr.Mukesh Shah waives service of Rule on behalf of the respondents.

Learned Counsel were also heard on the question of interim relief. On the request of both the sides, the matter is taken up for final disposal right today.

Learned Counsel for the petitioner has pointed out that it is very clear from the order passed by the CEGAT that the petitioner industry has been declared as a sick industry by BIFR and therefore, there is no question of any recovery so long as it continues to be a sick industry. Our attention has also been invited to the public auction notice dated 28th March 2001 issued by the Deputy Commissioner (Prev. & TRC), Central Excise & Customs Recovery Cell, Vadodara even after CEGAT's order dated 17th April 2000. There is no dispute between the parties that once the petitioner industry was declared as a sick industry, there is no question of recovery until the order with regard to declaring the petitioner as a sick industry is revoked by the BIFR. In the facts and circumstances of this case, we direct that the property in question shall remain attached but the same shall not be subjected to auction as long as the petitioner continues to be a sick industry. This petition is disposed of accordingly. Rule is decided accordingly.

25th June 2001 (M.R. Calla, J.)

(N.G. Nandi, J.)

Sreeram.